

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

---

NICOLE HALL, as Administratrix of the Estate  
of Amir Hall,

Plaintiff,

Civil Action No.

9:12-CV-0377 (GTS/DEP)

v.

NEW YORK STATE OFFICE OF MENTAL  
HEALTH, *et al.*,

Defendants.

---

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF:

STROOCK, STROOCK, LAW FIRM  
180 Maiden Lane  
New York, NY 10038

PATRICK N. PETROCELLI, ESQ.  
DAVID J. KAHNE, ESQ.

FOR STATE DEFENDANTS &  
SUBPOENAED PARTY:

HON. ERIC T. SCHNEIDERMAN  
Office of Attorney General  
State of New York  
Department of Law  
The Capitol  
Albany, NY 12224

TIMOTHY P. MULVEY, ESQ.  
Assistant Attorney General

FOR REMAINING DEFENDANTS:

WINN LAW OFFICE  
13 North Street  
Granville, NY 12832

ROBERT M. WINN, ESQ.

LaMARCHE, SAFRANKO PLLC  
1539 Crescent Road  
P.O. Box 5437  
Clifton Park, NY 12065

GEORGE E. LaMARCHE, III., ESQ.

DAVID E. PEEBLES  
U.S. MAGISTRATE JUDGE

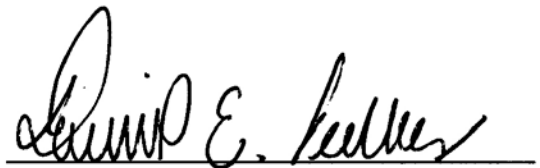
ORDER

Currently pending before the court in connection with this action is a motion brought by defendant Office of Mental Health ("OMH") to quash a subpoena issued by plaintiff's counsel on January 15, 2014 to Viktoria Fischer, an OMH Risk Management Specialist employed at the Central New York Psychiatric Center, purporting to require her to appear on January 30, 2014 to testify at a deposition in this action, and to produce documents to be used in conjunction with that deposition. Dkt. No. 108. In its motion, defendant OMH contends that the subpoena seeks testimony and material protected under N.Y. Education Law § 6527. Defendants Lewis Richard Davis and Zoe Kingsley have joined in the motion. Dkt. Nos. 111, 116. Plaintiff opposes defendant OMH's motion, arguing that the privilege of N.Y. Education Law § 6527 does not apply and, in any event, has been waived. Dkt. No. 115.

Oral argument was conducted in connection with defendant OMH's motion on February 24, 2014 during an on-the-record telephone

conference. At the close of argument I issued an oral decision denying the motion to quash. Based upon the foregoing and the court's bench decision, which is incorporated herein by reference, it is hereby

ORDERED that the motion of defendant OMH to quash a subpoena issued by plaintiff's counsel to Viktoria Fischer (Dkt. No. 108) be and is hereby DENIED, without an award of costs or attorney's fees to any party.

A handwritten signature in black ink, appearing to read "David E. Peebles", is written over a horizontal line.

David E. Peebles  
U.S. Magistrate Judge

Dated: February 25, 2014  
Syracuse, NY